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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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JAHIM DESHAWN PHILLIPS,  
Plaintiff,

vs.

WESTGATE PARK CITY et al.,  
Defendants.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Case No. 2:13-cv-0863 CW-PMW

District Judge Clark Waddoups

Magistrate Judge Paul M. Warner

This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Paul M. Warner under 28 U.S.C. § 636(b)(1)(B). Plaintiff Jahim Deshawn Phillips (“Phillips”) is a *pro se* litigant. In the caption of his Complaint, Phillips asserted claims against Westgate Park City (“Westgate”) and Central Florida Investments, Inc. (“Central Florida”). In an exhibit attached to his Complaint, Phillips also named the following individuals as defendants: Lucero Nogueda, Elena Mendoza, April Nyman, and Jill Shroyer (collectively the “Individual Defendants”). On February 4, 2014, each of the defendants named in the Complaint’s caption and attached exhibit moved to dismiss the case for failure to state a claim.

On September 29, 2014, Judge Warner issued a Report and Recommendation, recommending that defendants’ motion be granted with respect to the Individual Defendants in their individual capacities. With respect to Westgate and Central Florida, Judge Warner found that Plaintiff had failed to state a claim, but that it may be possible for him to state a claim if given an opportunity to amend the Complaint. Phillips filed no Objection to the Report and Recommendation.

After having reviewed the file and report, the court hereby APPROVES AND ADOPTS Judge Warner's Report and Recommendation.<sup>1</sup> Accordingly, the motion to dismiss is GRANTED IN PART and DENIED IN PART.<sup>2</sup> The court grants the motion with respect to the Individual Defendants and dismisses them with prejudice in their individual capacities. Each party shall bear one's own costs.

The court denies the motion with respect to Westgate and Central Florida and grants Plaintiff leave to amend his Complaint to assert a proper claim against them. Plaintiff shall file the amended Complaint on or before **December 30, 2014**. Failure to do so shall result in dismissal of this action.

SO ORDERED this 10<sup>th</sup> day of December, 2014.

BY THE COURT:



Clark Waddoups  
United States District Judge

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<sup>1</sup> Dkt. No. 19.

<sup>2</sup> Dkt. No. 7.